



City of Chicago



O2020-2117

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	4/22/2020
Sponsor(s):	Waguespack (32)
Type:	Ordinance
Title:	Amendment of Municipal Code Chapter 4-8 by adding new Section 4-8-300 to regulate third-party food delivery service fees
Committee(s) Assignment:	Committee on Finance

ORDINANCE

WHEREAS, Chicago has a diverse and exciting restaurant community that extends into every neighborhood and contributes to making this a vibrant world-class city; and

WHEREAS, Chicagoans, even before the COVID-19 pandemic, were using third-party online food delivery applications often to access our City’s amazing restaurants; and

WHEREAS, according to news sources, food delivery application companies often charge commission fees that can exceed 30 percent, cutting into the already thin profit margins of restaurants; and

WHEREAS, it is the intent of the City of Chicago to protect its vibrant restaurant community from excessive price gouging at all times; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO

Section 1 - The above recitals are expressly incorporated in this ordinance.

Section 2 - Chapter 4-8 of the Municipal Code of Chicago is amended inserting the new Section 4-8-300 as follows:

4-8-300 Third-Party Food Delivery Service Fees

(a) Definitions

The following definitions shall apply to this section:

“Covered establishment” shall mean any food dispensing establishment, as defined by Sec. 4-8-010, that offers, in a single transaction over the internet, whether directly or through a third-party food delivery service, the sale and same-day delivery of food to customers.

“Online order” shall mean any order placed by a customer through a platform provided by a third-party food delivery service for delivery or pickup within the City.

“Purchase price” shall mean the menu price of an online order, excluding taxes, gratuity, and any other fees that make up the total cost to the customer.

“Service fee” shall mean any fee charged to the customer that is above and beyond the purchase price, tax, or gratuity.

“Third-party food delivery service” shall mean any website, mobile application, or other internet service that offers or arranges for the sale of food or beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from, separately owned and operated food service establishments.

(b) Limits on Charges to Covered Establishments

It shall be unlawful for a third-party food delivery service to charge a covered establishment a fee per online order for the use of its service that totals more than five percent of the purchase price of such online order.

(c) Recourse

If a third-party food delivery service charges a covered establishment fees that violate this section, the covered establishment shall provide written notice to the third-party food delivery service requesting a refund within seven days. The third-party food delivery service shall have seven days after the notice to cure the violation. If the third-party food delivery service does not provide a refund within seven days of the notice, or if the third-party food delivery service continues to charge the fees in violation of this section, a covered establishment shall have the right to enforce this section through civil action. The prevailing party in any such action shall be entitled to the award of reasonable attorney fees.

(d) Direct Gratuities to Covered Establishments

At the discretion of the covered establishment, third-party food delivery services shall provide on their platform a mechanism for customers to provide gratuities to covered establishments. Those payments shall be provided to the covered establishment in full and at the same time as the third party food delivery service provides other payments to the covered establishment.

(e) Service Fees

Should the third-party food delivery service change a service fee to the customer, that fee shall be paid in full to the person delivering the food.

(f) Violations

Except as otherwise provided in subsection (b) in this section, any third-party food delivery service found to be in violation of this section or rules promulgated thereunder shall be subject to a fine of not less than \$1,500 and not more than \$3,000 for a first offence. After a fifth offence within any 12 month period, any third-party food delivery service shall be found to be a habitual offender and shall be subject to a fine of not less than \$15,000 and not more than \$30,000. Additionally, any third-party food delivery service found to be a habitual offender shall be subject to license revocation. The Commissioner of the Department of Business Affairs and Consumer Protection is authorized to promulgate rules to implement this section.

Section 3 - This ordinance shall take effect upon passage and publication and shall be repealed on its own accord January 1, 2021.

A handwritten signature in black ink that reads "Scott Waguespack". The signature is written in a cursive, flowing style.

Alderman Scott Waguespack - 32nd Ward